
4B

Information/Action

Legislative Committee of the Whole

Analyses of Bills

Executive Summary: Staff will present analyses of educator preparation or licensing bills introduced by Legislators. The analyses will summarize current law, describe the bills' provisions, estimate its costs and recommend amendments if applicable.

Recommended Action: The Commission may take a position on the measures. Positions of the Commission to consider are: Sponsor, Support, Support if Amended, Seek Amendments, Watch, Oppose Unless Amended, Oppose, or No Position.

Presenter: Bonnie Parks, Director, Office of Governmental Relations

Strategic Plan Goal: 4

Continue effective and appropriate involvement of the Commission with policymakers on key education issues.

Influence legislation regarding the preparation and certification of professional educators

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ANALYSIS OF BILLS

Bill Number:	Assembly Bill 950
Author:	Assemblymember Fran Pavley
Sponsor:	Assemblymember Fran Pavley
Subject of Bill:	Fingerprinting: criminal record summaries
Date Introduced:	February 18, 2005
Date Last Amended:	June 22, 2006
Status in Leg. Process:	Senate Appropriations Committee
Recommended Position:	Oppose
Date of Analysis:	July 3, 2006
Analysts:	Rod Santiago

Summary of Current Law and Summary of Current Activity by the Commission

Current law requires the Commission to adopt regulations requiring every applicant for a credential, or for the renewal of a credential, to submit reasonable evidence of identification and good moral character. These adopted regulations must specify that an applicant shall not be required to disclose, and the Committee of Credentials shall not inquire into or consider, any acts or omissions not related to the applicant's fitness to teach or perform other duties for which he or she is certificated, or which is related to his or her competence to perform the duties authorized by his or her credential. (Education Code §44339)

Current law also requires that each applicant for a credential, or for the renewal of a credential, shall submit with the credential application, duplicate personal identification cards provided by the Commission upon which shall appear legible fingerprints and a personal description of the applicant. (Education Code §44340)

Current law requires the Commission to appoint a Committee of Credentials. This committee is placed under the supervision of the Commission. Current law requires that each allegation of an act or omission by an applicant for, or holder of, a credential for which he or she may be subject to an adverse action shall be presented to the Committee of Credentials. The Committee has jurisdiction to commence an initial review upon receipt of any of the following:

- 1) Official records of the Department of Justice, of any law enforcement agency, of any state or federal court, and of any other agency of this state or another state.
- 2) An affidavit or declaration signed by person or persons with personal knowledge of the acts alleged to constitute misconduct.
- 3) A statement from an employer notifying the Commission that, as a result of, or while an allegation of misconduct is pending, a credential holder has been dismissed, nonreelected, suspended, for more than 10 days, or placed pursuant to a final adverse employment action on unpaid administrative leave for more than 10 days, or has resigned or otherwise left employment. The employer is required to provide the notice to the Commission no later than 30 days after the dismissal, nonreelection, suspension, placement on unpaid administrative leave, resignation, or departure from employment of the employee.
- 4) A notice from an employer that a complaint was filed with the school district alleging sexual misconduct by a credential holder. Results of an investigation by the committee based on this paragraph shall not be considered for action by the committee unless there is evidence presented to the committee in the form of a written or oral declaration under penalty of perjury that confirms the personal knowledge of the declarant regarding the acts alleged to constitute misconduct.
- 5) A notice from a school district, employer, public agency or testing administrator of a violation of Section 44420, 44421.1, 44421.5, or 44439.
- 6) An affirmative response on any application submitted to the Commission as to any conviction, adverse action on, or denial of, any license, or pending investigation into any criminal allegation or pending investigation of any noncriminal allegation of misconduct by a governmental licensing entity. Or failure to disclose any matter as described.

Analysis of Bill Provisions

AB 950 would require a first-time applicant for a credential to submit to the appropriate county office of education duplicate personal identification cards provided by the Commission. Applicants for renewal of a credential would also be required by AB 950 to submit personal identification cards to the appropriate county office of education if either of the following apply:

- 1) The applicant has a lapse in employment within the jurisdiction of the county office of education of more than “____” years since the date in which the held credential was first issued or last renewed.
- 2) The applicant resides in a different county than the one in which he or she resided when his or her credential was first issued or last renewed.

AB 950 would require the Commission to adopt regulations that may in its judgment be necessary to administer the provisions of the bill.

The bill would also require county offices of education to perform the following school personnel certification functions for all school districts within its jurisdiction:

- (1) Sending fingerprints to the Department of Justice and the Federal Bureau of Investigation.
- (2) Receiving reports of convictions of serious and violent felonies.

- (3) Reviewing criminal history records and reports of subsequent arrests from the Department of Justice and the Federal Bureau of Investigation.
- (4) Maintaining common lists of persons eligible for employment.

AB 950 would require county offices of education, upon receipt of a criminal history record of an applicant, to remove the affected employee from the common list of persons eligible for employment. County offices of education, upon receipt of a criminal history record or report of subsequent arrest of any person on the eligibility list, would be required to notify district superintendents and make the report available for inspection, on a confidential basis, for a period of 30 days following the receipt of notice, to enable the school district to determine whether the employee meets the criteria for continued employment. The bill would require that the county office of education would be considered the employer for purposes of subdivisions (a), (d) and (g) of Education Code Section 44830.1.

The bill also requires county offices of education to establish interagency agreements with the DOJ and FBI for the purpose of submitting and receiving information about credential holders and applicants. County offices of education would be required to ensure and maintain the confidentiality of all information obtained and received and would be charged with compliance responsibilities for the proper handling of such information as prescribed in the California Code of Regulations and the Penal Code.

The bill would authorize the designation of a single county responsible for performing the specified personnel functions for individuals who may be employed by multiple school districts within the county or contiguous counties.

Analysis of Fiscal Impact of Bill

While the bill is unclear in regards to many of the prescribed processes, it is possible that the bill could result in a salary savings of one PY in the Certification, Assignment and Waivers Division. However, the concomitant costs and workload related to coordinating receipt of the criminal history reports from over 50 separate County Offices of Education would require, at the minimum, an additional PY for the Division of Professional Practices.

Analysis of Relevant Legislative Policies by the Commission

The following Legislative policies apply to this measure:

2. The Commission supports legislation that proposes to maintain or establish high standards of fitness and conduct for public school educators in California and opposes legislation that would lower standards of fitness or conduct for public school educators.
4. The Commission supports the maintenance of a thoughtful, cohesive approach to the preparation of credential candidates and opposes legislation that would tend to fragment or undermine the cohesiveness of the preparation of credential candidates.
8. The Commission supports legislation that affirms its role as an autonomous teacher standards board and opposes legislation that would erode the independence or authority of the Commission.

Organizational Positions on the Bill

Support

None known at this time

Opposition

Association of California School Administrators

California Teachers Association

California Federation of Teachers

California State University

Los Angeles County Office of Education

School District Personnel Administrators of San Bernardino & San Diego County

Reason for Suggested Position

AB 950 seeks to decentralize the fingerprinting process by moving this responsibility to the county offices of education. A teaching credential is a statewide license that allows a holder in good standing to teach at any public school in California within the authorization of the credential. By decentralizing the fingerprinting process, AB 950 would open a host of problems for the teachers, the schools and, most importantly, the children.

By decentralizing the process, the bill would require each county office of education to establish new processes and protocols for how information would be communicated from the county offices of education to the Commission. How would the Commission receive reports of serious and violent felonies or information on subsequent arrests? How would the Commission receive information requiring mandatory revocation of a credential in a timely manner? It is not clear how this would “simplify” the process. It is not clear how this would provide adequate protection for the children of our state.

It is for these reasons that staff is recommending a position of **Oppose**.

ANALYSIS OF BILLS

Bill Number:	Assembly Bill 2837
Author:	Assembly Member Baca
Sponsor:	Los Angeles Unified School District
Subject of Bill:	Clinical Rehabilitative Services Credentials: Language, Speech and Hearing
Date Introduced:	February 24, 2006
Date Last Amended:	June 20, 2006
Status in Leg. Process:	Assembly Floor
Recommended Position:	Seek Amendments
Date of Analysis:	July 10, 2006
Analyst:	Marilyn Errett

Summary of Current Law

Minimum requirements for the Clinical Rehabilitative Services Credential: Language, Speech and Hearing are established in the California Education Code.¹ While the Education Code sets the minimum of a baccalaureate degree, a fifth year program or the equivalent, and completion of a preparation program accredited by the Commission, the current requirements for the credential, approved by the Commission in 1996, include completion of a master's degree to align with the federal requirement that the credential meet the "highest state standard" currently set by the Speech-Language Pathology and Audiology Board in the Department of Consumer Affairs.

¹ Education Code section 44268

Summary of Current Activity by the Commission

Recently the Department of Health Services requested an opinion from the Office of the Attorney General regarding the equivalency of the license issued by the California Speech-Language Pathology and Audiology Board and the Clinical and Rehabilitative Services Credential authorizing services in speech pathology.² The specific question submitted to the Office of the Attorney General was as follows:

- Does a state services credential with specialization in clinical or rehabilitative services issued by the California Commission on Teacher Credentialing qualify the holder as a “speech pathologist” under federal standards governing Medicaid reimbursement?

The Office of the Attorney General concluded that the license and the credential had many points in common. However, two distinctions between the license and the credential were found to be significant.

The license requires that the applicant achieve a passing score on the American Speech and Hearing Association-approved national examination in speech-language pathology and practical experience in the form of a 36-week, full-time, mentored clinical fellowship. The credential, in contrast, does not include these requirements. The Office of the Attorney General concluded”

- A state services credential with specialization in clinical or rehabilitative services issued by the California Commission on Teacher Credentialing does not qualify the holder as a “speech pathologist” under federal standards governing Medicaid reimbursement.

In 2004-05, the Commission issued 232 credentials authorizing services in language, speech and hearing. There are fourteen Commission-accredited programs offering preparation for clinical rehabilitative services credentials. According the California Department of Education, there are currently 4,734 certificated professionals providing language, speech and hearing services in California public schools.

The Commission issues credentials in Clinical Rehabilitative Services in the following authorization areas.

- Language, Speech, and Hearing
- Audiology
- Language, Speech, Hearing, and Audiology
- Orientation and Mobility
- Language, Speech and Hearing including Special Class Authorization

Unlike many of the current teaching and services credentials issued by the Commission, the Clinical and Rehabilitative Services Credential is not a two-tiered credential consisting of a preliminary level and a professional clear level. Rather, applicants are initially issued a professional clear credential. Credential holders may complete more than one authorization area.

² Attorney General Opinion Number 06-104 dated April 24, 2006

Candidates for a Clinical Rehabilitative Services Credential must currently complete all of the following requirements:

- Obtain a master's or higher degree from a regionally-accredited college or university for all authorizations listed above except "orientation and mobility."
- Pass the California Basic Educational Skills Test
- Complete a fifth year, or its equivalent, of college or university education
- Complete a Commission-approved specialized professional preparation program resulting in formal recommendation for the credential by the college or university through which the program was completed.
- Complete all character and identification requirements.

The Commission's *Standards of Program Quality and Effectiveness* for the Clinical Rehabilitative Services Credential: Language, Speech and Hearing further specify content including the range and types of clinical experiences, the knowledge and skills needed to successfully work with English Learners, experience with Individualized Education Plans (IEP) and Individualized Family Service Plans (IFSP), and knowledge and skill in working with students from a wide range of cultural and economic backgrounds. The standards ensure that credential candidates receive preparation in working with students from birth to age 22 in a school setting. All programs accredited by the Commission must meet these standards.

In addition to the standards, the Commission establishes *preconditions* for educator preparation programs. These preconditions are based on federal and state laws and also on Commission policy. Among the preconditions for Clinical and Rehabilitative Services Credentials based on federal or state laws is the following:

- Each candidate for the Clinical Rehabilitative Services Credential in Speech and Language or Audiology must meet the highest requirements in the state applicable to the profession. In California, (board) licensure is deemed the highest state standard.

Preconditions established by the Commission include the following:

- The program of professional preparation for the Clinical Rehabilitative Services Credential in Language and Speech or Audiology must provide the opportunity for candidates to fulfill the requirements for California licensure in Language and Speech and/or Audiology.
- The program of professional preparation for the Clinical Rehabilitative Services Credential in Language and Speech or Audiology must require candidates to complete at least 75 semester credit hours.
- The program of professional preparation for Clinical Rehabilitative Services Credentials in Language and Speech or Audiology must require a minimum of 25 observation hours prior to 350 clinical contact hours.

Analysis of Bill Provisions

AB 2837 is an urgency bill that would require the Commission, commencing January 1, 2007, to issue a two-tiered credential consisting of a two-year preliminary credential and a professional clear credential. The measure states that it is the intent of the Legislature to align the state credentialing requirements for personnel standards for California speech-language pathologists with standards for Medi-Cal local educational agency reimbursement, in order to ensure continued funding for the Local Education Agency Medi-Cal program.

Credential requirements would be as follows:

Preliminary Credential –

- Holds or has been recommended for a master's degree in speech-language pathology from a program accredited by the American Speech-Language-Hearing Association's Council on Academic Accreditation, or an equivalent degree as determined by the Commission on Teacher Credentialing.
- The applicant must be in the process of acquiring supervised clinical experience.

Professional Clear Credential –

- Holds a master's degree in speech-language pathology from a program accredited by the American Speech-Language-Hearing Association's Council on Academic Accreditation or an equivalent degree as determined by the California Commission on Teacher Credentialing.
- Achieved a passing score as determined by the American Speech-Language-Hearing Association's certification requirements on the Educational Testing Service's national teachers' Praxis series written test in speech-language pathology.
- Completed a mentored practical experience period, in the form of a 36-week, full-time mentored clinical experience or an equivalent supervised practicum, as determined by the Commission.

AB 2837 allows any individual who earned a Clinical Rehabilitative Services Credential prior to January 1, 2007 to up-grade to the new professional clear level credential upon meeting the testing and clinical hours requirements.

Finally, the measure would require that the Office of the Attorney General issue an opinion based on the new provisions of law and would make the provisions operative on the date that the Attorney General issues an opinion holding that the new certifications by the Commission on Teacher Credentialing for the professional clear credential are equivalent for purposes of federal law provided in Title 42 of the Code of Federal Regulations.

AB 2837 contains other provisions amending the Welfare and Institutions Code related to Medi-Cal billing.

Analysis of Fiscal Impact of Bill

Not known at this time.

Analysis of Relevant Legislative Policies by the Commission

The following Legislative policies apply to this measure:

5. The Commission supports legislation that strengthens or reaffirms initiatives and reforms which it previously has adopted, and opposes legislation that would undermine initiatives or reforms which it previously has adopted.

Organizational Positions on the Bill

Support:

Los Angeles Unified School District (Sponsor)
Association of California Urban School Districts
California Speech-Language-Hearing Association
Kern County Superintendent of Schools
Sacramento City Unified School District
Santa Ana Unified School District
Strategic Education Services

Opposition:

None known at this time

Reason for Suggested Amendments

In its effort to align credential and board licensure requirements to meet the “highest standard” per federal law, AB 2837 would eliminate the Commission’s unique credentialing programs and standards and, in so doing, would eliminate important preparation addressing the needs of California’s school children. The preparation standards for Commission accreditation purposes provide a focus on providing services in the school setting. As outlined earlier in this agenda item, there are standards addressing the needs of English Learners, cultural diversity, working within the legal environment of public schools to ensure that the special needs of students are met, as well as ensuring that the candidate experiences school-based field experience with a variety of age groups.

Staff recommends that AB 2837 be amended to address the following issues while ensuring that all programs meet the “highest standard” through the establishment of a two-tiered credential:

- Maintain the Commission’s authority to establish standards for the accreditation of programs in Clinical Rehabilitative Services.
- Maintain that programs accredited by the Commission would recommend candidates for the preliminary credential.

- Delete language regarding Commission approval of master's degree programs. (The Commission has authority to accredit credential programs, but does not approve degree programs.)

According to the bill's sponsor, between 30% and 40% of all federal Local Education Agency dollars received by school districts are claimed by speech and language services. The sponsor states that the discrepancy between credential and board license (highest standard) requirements resulted in a loss to the state of nearly 30 million dollars in 2003-04.

The suggested amendments would not interfere with the intent of the bill to align the requirements of the credential and the board license in order to meet federal requirements for Medi-Cal billing. However, they would maintain the Commission's standards and accreditation procedures for a school oriented credential.

For these reasons staff recommends a **Seek Amendments** position on AB 2837.